

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9876 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

( No. 1 to 5 - NO)

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JAMNADAS MADHAVJI & COMPANY

Versus

STATE OF GUJARAT

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Appearance:

MR. J.R. NANAVATI WITH MR JAYANT P BHATT for Petitioner

MR. S.P. DAVE.LD.GOVT. COUNSEL for Respondent No. 1, 2

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CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 12/02/97

ORAL JUDGEMENT

The Petitioner M/s. Jamnadas Madhavji & Company stationed at Bedeshwar, Jamnagar, had made the necessary application on October 12, 1976 for obtaining the exemption under the ULC Act, 1976 for industrial purpose. The said application was concerning two parcels of land bearing Survey No. 1-G/4 admeasuring 1254.60 sq. meters and Survey No. 4-G/10 ademasuring 8454.60 sq. meters.

The opportunity was given to the petitioner to appear and to substantiate their case on four dates in year 1995. The last date which was given to appear was dated April 27, 1995. Thereafter all of a sudden the impugned orders dated September 19, 1996 came to be passed, rejecting the said application dated October 12, 1976. This orders dated September 19, 1996 available at Annexure- Z-19 are in challenge in the present petition before me.

The principal contention coming from learned counsel for the petitioner Mr. J.R. Nanavati is that the application for the above said exemption was submitted on October 12, 1976 and that it had remained pending for a long period of about twenty years and that, all of a sudden the application has been turned down when nobody was present to represent the cause of the petitioner. The impugned orders are abundantly clear in this respect. It shall have to be pointed out that the date of application has been incorrectly mentioned as October 23, 1993 in this orders. The correct date which requires to be taken note of is October 12, 1976. Thus, it appears that the said application for exemption under Section 20 of the ULC Act 1976 was pending right from year 1976. It is true that in January, February, March and April 1995 four dates were given. Even on the last occasion, that is on April 27, 1995 the prayer for time was granted. Thereafter all of a sudden without affording an opportunity of being heard, the said proceedings came to be decided against the petitioner.

Ld. Counsel Mr. Nanavati is perfectly justified in urging before me that, this would be amounting to disposal of the proceedings initiated by the petitioner behind his back, without affording a reasonable opportunity of being heard to him, and that the orders would be violative of the principles of natural justice. The contention coming from learned counsel requires to be accepted for the simple reason that, the proceedings initiated in year 1976 were on the file lying idle up to the year 1996. Even when the matter came to be adjourned on the last occasion on April 27, 1995, it was understood that the matter is being adjourned. Thereafter all of a sudden the old proceedings have been decided and disposed of, without giving the opportunity of effective hearing to the petitioner. Because of this, it appears that the entire proceedings have been decided behind the back of the petitioner and the impugned orders appear to be clearly violative of the principles of natural justice.

The present petition therefore requires to be granted. The same is hereby accordingly granted. The

orders dated September 19, 1996 available at Annexure Z-19 are quashed and set aside and the matter is remanded back to the authority concerned, with the direction to decide the same according to law and on merits, after affording a reasonable opportunity of being heard to the petitioner. Id. counsel Mr. Nanavati for the petitioner makes it clear that the petitioner shall cooperate in the early hearing of the above said proceedings. Rule is made absolute to the above said extent, with no order as to cost.

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